

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 981 - HB 1239**

March 23, 2015

**SUMMARY OF BILL:** Requires a victim of sexual assault who has submitted to a forensic medical examination to give written consent prior to the respective health care provider releasing a sexual assault evidence kit (SAK) or hold kit to a law enforcement agency. If the victim is a minor, the legally appointed guardian of such minor must provide consent to the release of any such kit. If the victim does not report an alleged sexual offense to police at the time of the forensic medical examination, a hold kit shall be collected and the healthcare provider is required to assign a number to such kit, rather than using the victim's name. The victim shall be provided the identifying number for the respective kit, and any information relative to where and how long the kit will be stored, and the procedures for making a police report. A healthcare provider or law enforcement agency is required to store any SAK or hold kit for a period of three years and shall not be submitted to the Tennessee Bureau of Investigation (TBI) or to a similar laboratory for testing until the victim has filed a police report. Upon 60 days from consent being provided by a victim or the victim's legal guardian, the healthcare provider or law enforcement agency, as applicable, must submit kits to TBI or a similar laboratory for either serology or Deoxyribonucleic acid (DNA) testing. Strictly prohibits submission of a kit without consent of the victim.

Requires the State Domestic Violence Coordinating Council (DVCC) to create a model policy for law enforcement agencies for responding to reports of sexual offenses. Such policy must include guidelines for law enforcement personnel on investigating such reports, providing assistance to victims, collaborating with victim advocates, healthcare providers, and victim services agencies, and collecting, storing, and submitting SAKs to TBI or similar laboratories for testing. Such policy must be distributed to all law enforcement agencies that are likely to encounter reports of sexual offenses on or before January 1, 2016. Any such law enforcement agencies are required to establish written policies and procedures on responding to reports of sexual offenses. A law enforcement agency may adopt the model policy provided by the DVCC, but is authorized to adopt its own policy; provided, any policy created by a law enforcement agency must include the same or higher standards than the DVCC model. Any model created by a law enforcement agency must be adopted on or before July 1, 2016.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

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- Based on a survey conducted by TBI, there are approximately 678 untested SAKs across 94 sheriffs' offices statewide and approximately 8,384 untested SAKs across 202 police departments statewide, for a total number 8,586 untested SAKs.
- This will not increase the number of SAKs that the TBI would, regardless of this legislation, need to test nor will it require the TBI to complete any such test in a defined period of time.
- Hospitals will be prohibited from providing SAKs to a law enforcement agency until the victim or the victim's designee provides consent. Hospitals do not currently store SAKs pursuant to a forensic medical evaluation, but provide SAKs to the appropriate law enforcement agency.
- It is unknown how many victims will choose to forego the submittal of an SAK to law enforcement; thus, requiring the appropriate health care provider to store the SAK for up to 3 years.
- Any required storage of SAKs at hospitals is assumed to have no significant impact on the state. Local governments that operate hospitals could incur additional expenditures to store the kits for three years if a law enforcement agency does not take the kit. It is assumed that these local governments will work out storage between the hospitals and law enforcement to ensure storage requirements are being met.
- It is assumed that any increase in the total number of SAKs collected or stored by sheriff and police departments or the number of SAKs sent to TBI would not be significant with relevance to the total number of currently untested SAKs.
- Requiring policies and methods to be adopted by law enforcement agencies will not place any additional requirements upon such agencies that differ greatly from current requirements.
- According to the DVCC, the Council can develop the model policy without additional cost.
- This is not estimated to have a significant impact on state or local government.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

/jdb